

1 Evan S. Nadel (CA Bar No. 213230)
KILPATRICK TOWNSEND & STOCKTON LLP
2 *ENadel@kilpatricktownsend.com*
Two Embarcadero Center, Suite 1900
3 San Francisco, CA 94111
Telephone: (415) 576-0200
4 Facsimile: (415) 576-0300

5 Rita Weeks (CA Bar No. 232396)
Rweeks@kilpatricktownsend.com
6 Marc A. Lieberstein (admitted *pro hac vice*)
MLieberstein@kilpatricktownsend.com
KILPATRICK TOWNSEND & STOCKTON LLP
8 1114 Avenue of the Americas
New York, NY 10036
9 Telephone: (212) 775-8700
10 Facsimile: (212) 504-9566

11 *Attorneys for Plaintiff*
12 *Chippendales USA, LLC*

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 CHIPPENDALES USA, LLC,
16 Plaintiff,
17
18 v.
19 JESSE BANERJEE ET AL,
20 Defendants.

CASE NO. 2:23-cv-03672 PA (PDx)
PLAINTIFF CHIPPENDALES USA,
LLC'S RESPONSE TO ORDER TO
SHOW CAUSE WHY THIS CASE
SHOULD NOT BE DISMISSED
FOR LACK OF PROSECUTION
[DOCKET 20]



1 Plaintiff Chippendales USA, LLC (“Chippendales”) respectfully responds to
2 the Court’s Order to Show Cause Why This Case Should Not Be Dismissed For
3 Lack of Prosecution [Docket 20, the “OSC”], entered on June 16, 2023, as follows:

4 Chippendales has acted diligently to bring this case to a conclusion but, due to
5 representations that defendant was in the process of retaining counsel, allowed a few
6 days after defendant failed to timely respond to the complaint for counsel to make
7 an appearance on his behalf. When that did not occur and the Court entered its
8 OSC, Chippendales quickly took action to request a default [Docket 21]. The clerk
9 has now entered defendant’s default [Docket 22], and the Court set a deadline of
10 July 20, 2023 for Chippendales to file a motion for default judgment [Docket 23].
11 Chippendales will file its default judgment motion on or before that date.

12 This case is related to another action pending before this Court between these
13 two parties, *Jesse Banerjee v. Chippendales USA, LLC*, Case No. 2:23-cv-03676-
14 PA-PD, which was removed from the Superior Court of California, County of Los
15 Angeles, on May 12, 2023 (“Removed Action”). Shortly after the removal, a lawyer
16 named Dilair Nafosi contacted Chippendales’ counsel claiming to represent Mr.
17 Banerjee solely in the state court probate matter, confirming that Mr. Banerjee was
18 *pro se* in both of the two federal actions, and noting that “Mr. Banerjee is requesting
19 time to seek counsel in the federal matters ...” (*See* Ex. 1 to Rule 26(f) Report filed
20 in Removed Action, Doc. 25-1, attached hereto as **Exhibit 1** for ease of reference).

21 When no counsel appeared for Mr. Banerjee and there was no word from him
22 or Mr. Nafosi, counsel for Chippendales requested an update or to schedule
23 necessary conferences directly with Mr. Banerjee. Mr. Nafosi sent an email on
24 June 13 stating that “Mr. Banerjee has found an attorney, but that attorney will be
25 unavailable today or tomorrow ...” Counsel for Chippendales requested the new
26 attorney’s contact information. The following day, June 14, Mr. Nafosi wrote that
27 “Mr. Banerjee or I will update you with the attorney information as soon as Mr.
28



1 Banerjee finalizes the representation, which we anticipate doing in seven days.”
2 Counsel for Chippendales responded that waiting another week would not be
3 appropriate, particularly in light of court deadlines in the Removed Action.

4 Thus, one day after Mr. Banerjee failed to timely respond to the complaint in
5 this action, his state court counsel informed Chippendales that “Mr. Banerjee has
6 found an attorney.” Based on Mr. Nafosi’s prior emails, Chippendales understood
7 that this new attorney would be Mr. Banerjee’s “counsel in the federal matters,” *i.e.*,
8 in *both* this action and the Removed Action.

9 Chippendales has reviewed this Court’s Self-Representation Order (and has
10 served it on Mr. Banerjee and emailed it to him and Mr. Nafosi), but due to its
11 receipt of information that counsel soon would be appearing on Mr. Banerjee’s
12 behalf, Chippendales did not immediately request entry of his default in this action.
13 If counsel had appeared last week for Mr. Banerjee, then that lawyer likely would
14 have opposed entry of the default or, if too late for that, likely would have sought to
15 vacate the default. Chippendales did not wish to waste the time of the Court and the
16 parties. By last Friday, June 16, however, no counsel for Mr. Banerjee had appeared
17 and this Court issued its OSC, indicating that it did not expect Chippendales to
18 provide any further time to Mr. Banerjee.

19 Accordingly, on that same day, Chippendales filed its request for entry of
20 default, which the clerk has now issued. Chippendales is already diligently
21 preparing a motion for default judgment, which it will file on or before July 20 in
22 accordance with the Court’s order dated June 20. Chippendales has energetically
23 litigated this action in accordance with the Federal Rules of Civil Procedure and this
24 Court’s Local Rules and standing orders, and it will continue to do so until the
25 conclusion of this action.

26 Therefore, Plaintiff respectfully asks the Court to discharge the Order to
27 Show Cause.



1
2 Dated: June 20, 2023

Respectfully submitted,
KILPATRICK TOWNSEND & STOCKTON LLP

3
4
5 By: /s/ Evan S. Nadel

6 Evan S. Nadel
7 Rita Weeks
8 Marc A. Lieberstein

9 *Attorneys for Plaintiff*
10 *Chippendales USA, LLC*
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Chippendales USA, LLC v. Jesse Banerjee
Case No. CV 23-3672 PA (PDx)

PROOF OF SERVICE

I am over 18 years of age and not a party to the action. I am a member of the California and New York bars and of the bar of this Court. My business address is Kilpatrick Townsend & Stockton LLP, 1114 Avenue of the Americas, New York, New York, 10036.

I served the document titled: **PLAINTIFF CHIPPENDALES USA, LLC'S RESPONSE TO ORDER TO SHOW CAUSE WHY THIS CASE SHOULD NOT BE DISMISSED FOR LACK OF PROSECUTION [DOCKET 20]** on the defendant Jesse Banerjee, who is not registered for the CM/ECF system, as follows:

☒ On June 20, 2023, by email to Mr. Banerjee at *info@stevebanerjee.com*;
and

☒ By U.S. First Class Mail. On June 20, 2023, a copy of the referenced document was placed in a sealed envelope, with postage prepaid, for collection and mailing with the U.S. Postal Service, addressed to:

Jesse Banerjee
3573 3rd Street, Suite 206
Los Angeles, CA 90020

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed on June 20, 2023 in New York, New York.

/s/ Rita Weeks
Rita Weeks

Attorney for Plaintiff

